

Remarks

Claims 16, 17, and 19-25, as amended, are pending in this application. In a final Office Action mailed September 20, 2005, the Examiner rejected claims 9-26 “under the judicially created doctrine of double patenting” based on the claims of U.S. Patent No. 5,844,896 (“the ‘896 patent”), a grandparent to the present application. The Examiner rejected claims 9-15, 24, and 25 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,633,924 to Kaish *et al.* (Kaish) in view of either U.S. Patent No. 5,740,234 to Black *et al.* (Black); U.S. Patent No. 5,799,073 to Fleisher *et al.* (Fleisher); or U.S. Patent No. 5,754,634 to Kay *et al.* (Kay). The Examiner allowed claims 16, 17, and 19-23. The Examiner objected to claim 26 solely as being dependent upon a rejected base claim.

Claim 24 has been amended to include the limitations of claim 26. Claim 24 should now be allowable over the cited prior art.

The Examiner rejected claims 9-26¹ under the judicially created doctrine of obviousness-type double patenting over the claims of the ‘896 patent. The Examiner’s support for this rejection is provided at page 2:

Although the conflicting claims are not identical, they are not patentably distinct from each other because they claims are directed to the same inventive concept with minor wording variations.

Independent claim 9 provides, *inter alia*, for “a data server in communication with the at least one service control point, the data server aggregating queue utilization data for each subscriber.” There is no data server of any kind claimed in the ‘896 patent. Moreover, there is no claim in the ‘896 patent of any aggregation of queue utilization data. The Examiner points to no specific language which describes or suggests these limitations.

Independent claim 16 provides, *inter alia*, for “collecting queue utilization information about each queued call in the service control point; and generating queue utilization statistics based on the collected queue utilization information.” There is no claim

¹Applicants note that in both the Office Action Summary and on page 6 of the Office Action, the Examiner indicated that claims 16, 17, and 19-23 were allowed. Applicants also note that claim 18 was canceled in an amendment filed in response to the previous Office Action.

in the '896 patent for an SCP which collects queue utilization information. Moreover, there is no claim in the '896 patent for generating queue utilization statistics. The Examiner points to no specific language which describes or suggests these limitations.

Independent claim 24 provides, *inter alia*, for "determining queue utilization information at the SCP about each queued call; and generating queue utilization statistics based on the queue utilization information." There is no claim in the '896 patent for an SCP which determines queue utilization. Moreover, there is no claim in the '896 patent for generating queue utilization statistics. The Examiner points to no specific language which describes or suggests these limitations.

In summary, there appears to be no support for the Examiner's obviousness-type double patenting rejection.

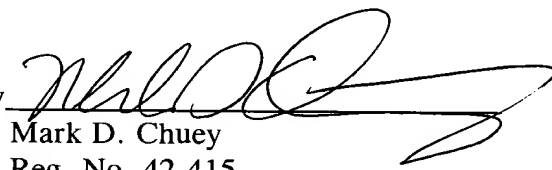
Claims 16, 17, and 19-25 meet all substantive requirements for patentability. The Examiner is respectfully requested to pass this case to issuance. No fee is believed due by filing this amendment. However, any fee due may be withdrawn from Deposit Account No. 21-0456 as specified in the Application Transmittal.

The Examiner is invited to contact the undersigned to discuss any aspect of this case.

Respectfully submitted,

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